

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

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4 KEITH RILEY,

Case No. 3:24-cv-00460-ART-CLB

5 Plaintiff,

6 DEPUTY 1, *et al.*,
7 Defendants.
8ORDER DENYING MOTION FOR
SUBPOENA WITHOUT PREJUDICE
AND GRANTING EXTENSION OF TIME

[ECF No. 7]

9 Plaintiff Keith Riley, who is confined at Washoe County Detention Facility
 10 ("WCDF"), filed this civil rights action under 42 U.S.C. § 1983 against several Washoe
 11 County Defendants based on events that allegedly occurred at the Washoe County
 12 Courthouse ("Courthouse") on March 28, 2024. The Court screened Riley's complaint,
 13 dismissed the complaint in its entirety, and granted leave to amend. (ECF No. 5.) In doing
 14 so, the Court found that Riley failed to state a colorable claim under federal law against
 15 any of the named Defendants, but he appeared to state at least one colorable excessive
 16 force claim against three unknown deputy sheriffs (referred to as Deputy #1, Deputy #2,
 17 and Deputy Van Driver). (*See id.*) Given these circumstances, the Court advised Riley as
 18 follows:

19 For this case to proceed, Plaintiff must file an amended complaint that
 20 states at least one colorable claim under federal law against at least one
 21 named Defendant. If Plaintiff does not know the name of Deputy #1, Deputy
 22 #2, or Deputy Van Driver (or any other potential Defendant), then he should
 23 first use any available procedures at WCDF to learn their names. If that
 24 method is unsuccessful, then Plaintiff may file a properly supported and
 25 complete motion under Federal Rule of Civil Procedure 45 for the Court to
 26 issue a Rule 45 subpoena duces tecum. A subpoena duces tecum requires
 27 the person served with the Rule 45 subpoena to provide requested
 information in their possession. Plaintiff must carefully review Rule 45 of the
 Federal Rules of Civil Procedure before filing a motion for a subpoena
 duces tecum. In general, however, the Court advises Plaintiff that any such
 motion must attach a copy of his proposed Rule 45 subpoena(s) to his
 motion, and that motion must clearly identify the documents that would have
 the information Plaintiff is seeking and explain why the documents and
 information would be available from the company, entity, or person that is
 the target of the subpoena.

28 (*Id.* at 14–15.)

1 Riley has filed a motion asking the Court to issue a subpoena duces tecum under
2 Federal Rule of Civil Procedure 45 (“Rule 45 motion”) (ECF No. 7), accompanied by a
3 proposed Rule 45 subpoena. (ECF No. 8.) Riley asks the Court to issue subpoenas to
4 find the names of the three deputy sheriffs mentioned above, one deputy sheriff
5 supervisor, and one nurse. (ECF No. 7 at 1–2.) The Court now addresses the motion.

6 The Court denies the Rule 45 motion without prejudice, with leave to refile, for two
7 reasons. First, Riley does not clearly identify the documents or electronically stored
8 information he is seeking that would contain the names of the unknown individuals. Riley
9 argues that there is evidence supporting his claims “in the body cam,” which presumably
10 refers to footage from a body cam being worn by one or more deputy sheriffs allegedly
11 involved in the instances of excessive force at the Courthouse. (See *id.* at 3–5.) But Riley
12 does not specify which body cam he is seeking footage from or why he believes that
13 footage would provide the names he is seeking. If Riley chooses to refile a Rule 45
14 motion, he should do a better job of clearly identifying the documents or electronically
15 stored information that would have the information he is seeking.

16 Second, the proposed subpoena is incomplete. Riley addressed the subpoena to
17 Washoe County Sheriff Darin Balaum and checked the box to command the production
18 of documents or electronically stored information. (ECF No. 8 at 1.) But Riley did not fill
19 in the space below this box to list what particular documents or electronically stored
20 information Balaum would be commanded to produce. (See *id.*) If Riley chooses to refile
21 a Rule 45 motion, he should complete the section of form AO 88B for listing the
22 documents or electronically stored information he is seeking to produce.

23 The Court grants Riley a 30-day extension of time to file an amended complaint.
24 The new deadline for Riley to file an amended complaint is **September 8, 2025**. Riley is
25 reminded that, for this case to proceed past the screening stage, he only needs to identify
26 one Defendant to a colorable claim. In other words, if Riley learns the name of one of the
27 deputy sheriffs who was involved in the alleged incidents of excessive force at the
28 Courthouse, and he alleges sufficient facts to state a colorable claim against that

1 individual in an amended complaint, then this case can proceed to the next phase of
2 litigation. Riley would then have an opportunity to file a motion to substitute the names of
3 any other Doe Defendants he identifies at a later stage of the case. Riley is again
4 encouraged to use whatever options are available to him at WCDF to learn the name of
5 one or more Doe Defendants—including any deputy sheriff allegedly involved in
6 transporting him to and from the Courthouse on March 28, 2024—before the refiles a
7 Rule 45 motion.

8 Accordingly, **IT IS ORDERED** that Riley's Rule 45 motion (ECF No. 7) is **DENIED**
9 **without prejudice.**

10 **IT IS FURTHER ORDERED** that Riley is **GRANTED** a 30-day extension of time to
11 file an amended complaint, resulting in a new deadline of **September 8, 2025**.

12 **IT IS FURTHER ORDERED** that, if Riley does not file an amended complaint by
13 **September 8, 2025**, this case will be dismissed without prejudice.

14 **IT IS FURTHER ORDERED** that the Clerk of Court is directed to send Riley a
15 courtesy copy of form AO 88B titled "Subpoena to Produce Documents, Information, or
16 Objects or to Permit Inspection of Premises in a Civil Action."

17 **IT IS SO ORDERED.**

18 **DATED:** August 6, 2025.

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UNITED STATES MAGISTRATE JUDGE